

**NOTICE**

This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

**FILED**

October 2, 2017  
Carla Bender  
4<sup>th</sup> District Appellate  
Court, IL

2017 IL App (4th) 170340-U

NO. 4-17-0340

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

In re: R.S., a Minor,	)	Appeal from
	)	Circuit Court of
(The People of the State of Illinois,	)	Sangamon County
Petitioner-Appellee,	)	No. 13JA140
v.	)	
Niti Patel,	)	Honorable
Respondent-Appellant).	)	Karen S. Tharp,
	)	Judge Presiding.

JUSTICE KNECHT delivered the judgment of the court.  
Justices Harris and Holder White concurred in the judgment.

**ORDER**

¶ 1 *Held:* The trial court's findings (1) respondent was unfit under section 1(D)(p) of the Adoption Act and (2) it was in the minor child's best interest to have respondent's parental rights terminated were not against the manifest weight of the evidence.

¶ 2 In November 2016, the State filed a motion for the termination of the parental rights of respondent, Niti Patel, as to her minor child, R.S. (born in September 2011). After an April 2017 hearing, the trial court found respondent unfit. In May 2017, the court concluded it was in R.S.'s best interest to terminate respondent's parental rights.

¶ 3 Respondent appeals, asserting the trial court erred by finding (1) her unfit and (2) it was in R.S.'s best interest to terminate her parental rights. We affirm.

¶ 4 I. BACKGROUND

¶ 5 In October 2013, the State filed a petition for the adjudication of wardship of R.S., which alleged he was neglected pursuant to section 2-3(1)(a) of the Juvenile Court Act of 1987 (Juvenile Court Act) (705 ILCS 405/2-3(1)(a) (West 2012)), because he was not receiving the proper care and supervision necessary for his well-being as evidenced by (1) respondent's failure to make a proper care plan for R.S. and (2) the inadequate supervision of R.S. At the March 2014 adjudicatory hearing, respondent stipulated R.S. was neglected because he was not receiving the proper care and supervision necessary for his well-being because she failed to make a proper care plan for him. Thus, the court found R.S. was neglected based on a lack of proper care and supervision. After an April 2014 dispositional hearing, the court (1) found respondent unfit, unable, or unwilling to care for, protect, train, educate, supervise, or discipline R.S.; (2) made R.S. a ward of the court; and (3) placed his custody and guardianship with DCFS.

¶ 6 In November 2016, the State filed a motion to terminate respondent's parental rights to R.S. The petition asserted respondent was unfit because she (1) failed to maintain a reasonable degree of interest, concern, or responsibility as to the minor child's welfare (750 ILCS 50/1(D)(b) (West 2016)); (2) failed to make reasonable efforts to correct the conditions that were the basis for the minor child's removal (750 ILCS 50/1(D)(m)(i) (West 2016)); (3) failed to make reasonable progress toward the minor child's return during any nine-month period after the neglect adjudication, specifically March 6, 2014, to December 6, 2014 (750 ILCS 50/1(D)(m)(ii) (West 2016)); (4) failed to make reasonable progress toward the minor child's return during any nine-month period after the neglect adjudication, specifically December 6, 2014, to September 6, 2015 (750 ILCS 50/1(D)(m)(ii) (West 2016)); (5) failed to make reasonable progress toward the minor child's return during any nine-month period after the neglect adjudication, specifically September 6, 2015, to June 6, 2016 (750 ILCS 50/1(D)(m)(ii) (West 2016)); and (6) evidenced

an inability to discharge parental responsibilities due to her mental impairment, mental illness, or intellectual disability, and sufficient justification existed to believe the inability would extend beyond a reasonable time (750 ILCS 50/1(D)(p) (West 2016)).

¶ 7 On February 23, 2017, and April 20, 2017, the trial court conducted a fitness hearing. Leanna Barber, a former foster care caseworker for the Center for Youth and Family Solutions (CYFS), testified she was the caseworker for R.S. from June 2014 to October 2016. DCFS initially took R.S. into care due to inadequate supervision.

¶ 8 Respondent received her first service plan in April 2014. Under the plan, respondent was to (1) complete parenting classes, (2) obtain a substance-abuse assessment, (3) attend individual counseling, (4) secure stable housing and income, and (5) cooperate with CYFS staff and recommendations. Barber stated in October 2014, respondent was rated satisfactory as to progress in services. Following the initiation of a second service plan in October 2014, respondent began showing limited cooperation with CYFS staff. Respondent was not available for several weekends for staff to drop in during the unsupervised weekend visits with R.S. However, in April 2015, respondent was rated satisfactory as to all of her tasks. Respondent's next three service plans (April 2015, October 2015, and April 2016) were rated unsatisfactory. Respondent showed limited cooperation with CYFS staff. During unsupervised weekend visits, respondent was found sleeping late into the morning and R.S. awake. R.S. has autism and requires constant supervision. When respondent worked, she left R.S. in the care of an individual who was not a viable child care provider based on his background check. Staff also discovered an individual on parole living with respondent. Ultimately, visitation was returned to supervised visitation in respondent's home.

¶ 9 Barber testified, although respondent completed parenting classes, she struggled demonstrating what she had learned during visits. According to Barber, respondent rarely expressed physical affection toward R.S. Respondent used a sharp tone when speaking to R.S. and did not appear to understand age appropriate behaviors. She did not act in a warm and nurturing manner toward R.S.

¶ 10 Dr. Jane Velez testified she is a licensed clinical psychologist. She conducted a psychological evaluation of respondent in February 2016. Velez used multiple tests in her evaluation of respondent, including (1) the Wechsler Adult Intelligence scale, which assesses cognitive ability and functioning; (2) the Wide Range Achievement test, which measures basic academic achievement, (3) the Minnesota Multiphasic Personality Inventory, which assesses personality traits, (4) the Child Abuse Potential Inventory test, a questionnaire designed to examine a person's proclivity toward child abuse, and (5) the Parenting Stress Index, which measures potential dysfunction in the parent-child system. In addition to these tests, Dr. Velez also interviewed respondent.

¶ 11 According to Dr. Velez, respondent gave vague responses to her questions, often providing a single word response. Although Dr. Velez encouraged respondent to provide greater detail, she did not. Respondent did not know four-year-old R.S. had been diagnosed with autism spectrum disorder and did not understand the diagnosis. Respondent was unable to express what she was feeling without the aid of a "feelings chart," a device used only when an individual is experiencing grave disassociation from her emotions. With the aid of the chart, respondent stated she felt tired and frustrated. Dr. Velez also noted respondent had lived in a homeless shelter and did not appear to have a support network.

¶ 12 As the result of the testing and interview with respondent, Dr. Velez determined respondent met the criteria for persistent depressive disorder, "a long term, low grade depressive disorder that involves lethargy, depression, isolation, [and] lack of motivation." Dr. Velez also believed respondent met the criteria for autistic spectrum disorder, noting "a deficit in relationships and communication with others." Moreover, Dr. Velez opined respondent suffered mild neurocognitive disorder, citing respondent's difficulty responding to questions and memory and attention deficits. Without treatment, Dr. Velez opined respondent would not make any progress toward overcoming or controlling her mental illnesses.

¶ 13 Based on her findings, Dr. Velez opined respondent suffered from mental impairments rendering her unable to discharge her parental responsibilities. Dr. Velez characterized the autism and neurocognitive disorders as "long-standing issues" and determined respondent was unlikely to regain her ability to discharge her parenting abilities within a reasonable time. On cross-examination, Dr. Velez admitted she had not observed respondent interact with R.S. She also indicated she had no information about respondent or R.S. after completing the assessment in February 2016.

¶ 14 Anne Wingbermuehle testified she is a behavior analyst at the Autism Clinic. Wingbermuehle helps children with autism develop behaviors which are more adaptive to their environment. Wingbermuehle worked with respondent and R.S. for four weeks in September and October 2016. She observed the interactions between respondent and R.S. and provided behavior training to respondent on how to interact with R.S. Wingbermuehle's clinician modeled various interventions for respondent while Wingbermuehle explained to respondent the motivation behind the modeled behavior. Respondent was unable to perform the modeled behavior. Wingbermuehle recommended respondent receive training in basic behavior analysis

principles to provide her with a greater understanding of autism. She also recommended R.S. receive individualized services. Wingbermuehle had no further contact with respondent or R.S. after the last observation date. According to Wingbermuehle, respondent appeared disinterested in the services she attempted to provide.

¶ 15 Kathryn Vincent, the lead foster care caseworker for CYFS, testified she was the caseworker for R.S. beginning in October 2016. During a home visit in November 2016, Vincent observed R.S.'s bedroom. She found broken toys "cluttered" to one side of the room and a broken bunk bed with no mattress. Vincent testified she observed five visits between respondent and R.S. She stated visitation was "not successful" and characterized the relationship between respondent and R.S. as "very strained." Respondent failed to secure recommended services through The Autism Clinic.

¶ 16 Following arguments, the trial court found respondent unfit as she (1) failed to maintain a reasonable degree of responsibility as to the minor child's welfare (750 ILCS 50/1(D)(b) (West 2016)); (2) failed to make reasonable progress toward the minor child's return during any nine-month period after the neglect adjudication, specifically December 6, 2014, to September 6, 2015 (750 ILCS 50/1(D)(m)(ii) (West 2016)); (3) failed to make reasonable progress toward the minor child's return during any nine-month period after the neglect adjudication, specifically September 6, 2015, to June 6, 2016 (750 ILCS 50/1(D)(m)(ii) (West 2016)); and (4) evidenced an inability to discharge parental responsibilities due to her mental impairment, mental illness, or intellectual disability, and sufficient justification existed to believe the inability would extend beyond a reasonable time (750 ILCS 50/1(D)(p) (West 2016)).

¶ 17 In May 2017, the trial court conducted the best-interests hearing. Barber testified R.S. had been placed in a specialized foster care home in February 2014. The foster parents have

received training to care for children with special needs. R.S. has a close relationship with his foster mother and interacts well with both foster parents. The foster parents are willing to provide permanency for R.S. through adoption. Following arguments, the court found it in the minor's best-interests to terminate respondent's parental rights. This appeal followed.

¶ 18

## II. ANALYSIS

¶ 19

### A. Unfitness Finding

¶ 20 Respondent argues the trial court's finding of unfitness was against the manifest weight of the evidence. We disagree.

¶ 21

In a proceeding to terminate a respondent's parental rights, the State must prove unfitness by clear and convincing evidence. *In re Donald A.G.*, 221 Ill. 2d 234, 244, 850 N.E.2d 172, 177 (2006). " 'A determination of parental unfitness involves factual findings and credibility assessments that the trial court is in the best position to make.' " *In re Richard H.*, 376 Ill. App. 3d 162, 165, 875 N.E.2d 1198, 1201 (2007) (quoting *In re Tiffany M.*, 353 Ill. App. 3d 883, 889-90, 819 N.E.2d 813, 819 (2004)). A reviewing court accords great deference to a trial court's finding of parental unfitness, and such a finding will not be disturbed on appeal unless it is against the manifest weight of the evidence. *In re A.F.*, 2012 IL App (2d) 111079, ¶ 40, 969 N.E.2d 877. "A decision regarding parental fitness is against the manifest weight of the evidence where the opposite conclusion is clearly the proper result." *In re D.D.*, 196 Ill. 2d 405, 417, 752 N.E.2d 1112, 1119 (2001).

¶ 22

In the case *sub judice*, the trial court found respondent unfit under section 1(D)(p) of the Adoption Act (750 ILCS 50/1(D)(p) (West 2016)), which sets forth the following grounds for a finding of unfitness:

"Inability to discharge parental responsibilities supported by competent evidence from a psychiatrist, licensed clinical social worker, or clinical psychologist of mental impairment, mental illness or an intellectual disability as fined in Section 1-116 of the Mental Health and Developmental Disabilities Code, or developmental disability as defined in Section 1-106 of that Code, and there is sufficient justification to believe that the inability to discharge parental responsibilities shall extend beyond a reasonable time period."

¶ 23 Thus, for a trial court to find a parent unfit under this subsection, the State must prove (1) "the parent suffers from a mental impairment, mental illness, mental retardation, or developmental disability sufficient to prevent the discharge of normal parental responsibilities"; and (2) "the inability will extend beyond a reasonable period of time." *In re Michael M.*, 364 Ill. App. 3d 598, 608, 847 N.E.2d 911, 920 (2006); see also *In re M.F.*, 326 Ill. App. 3d 1110, 1114, 762 N.E.2d 701, 705 (2002).

¶ 24 Here, Dr. Velez testified her evaluation of respondent revealed she had persistent depressive disorder, an autistic spectrum disorder, and mild neurocognitive disorder. Nothing in the record contradicts her expert opinion. Dr. Velez characterized the autistic spectrum disorder and neurocognitive disorder as "long-standing issues." She also stated respondent's condition would significantly impair her ability to discharge her parental responsibilities.

¶ 25 The evidence in this case indicates respondent suffers from mental impairments sufficient to prevent the discharge of normal parental responsibilities and the inability to discharge those responsibilities will extend beyond a reasonable period of time. While respondent argues she should have been afforded more time and services considering her disability, subsection 1(D)(p) requires only "sufficient justification" to believe her inability to



parent will extend beyond a reasonable time period. *In re J.A.S.*, 255 Ill. App. 3d 822, 824, 627 N.E.2d 770, 772 (1994) (stating "[a] medical prognosis need not be absolutely conclusive to satisfy the requirement of the statute"). Dr. Velez's testimony supports a finding of unfitness under subsection 1(D)(p). The trial court's finding of unfitness on this ground was not against the manifest weight of the evidence.

¶ 26 Because we have upheld the trial court's determination respondent met one of the statutory definitions of an "unfit person" (750 ILCS 50/1(D)(m)(ii) (West 2016)), we need not review any other bases for the court's unfitness finding. See *In re Tiffany M.*, 353 Ill. App. 3d 883, 891, 819 N.E.2d 813, 820 (2004).

¶ 27 B. Best-Interests Determination

¶ 28 Respondent argues the trial court's best-interests determination was against the manifest weight of the evidence. We disagree.

¶ 29 "Courts will not lightly terminate parental rights because of the fundamental importance inherent in those rights." *In re Veronica J.*, 371 Ill. App. 3d 822, 831, 867 N.E.2d 1134, 1142 (2007) (citing *In re M.H.*, 196 Ill. 2d 356, 362-63, 751 N.E.2d 1134, 1140 (2001)). Once the trial court finds the parent unfit, "all considerations must yield to the best interest of the child." *In re I.B.*, 397 Ill. App. 3d 335, 340, 921 N.E.2d 797, 801 (2009). When considering whether termination of parental rights is in a child's best interests, the trial court must consider a number of factors within "the context of the child's age and developmental needs." 705 ILCS 405/1-3(4.05) (West 2014). These include the following:

"(1) the child's physical safety and welfare; (2) the development of the child's identity; (3) the child's familial, cultural[,] and religious background and ties; (4) the child's sense of attachments, including love, security, familiarity, continuity of

affection, and the least[-]disruptive placement alternative; (5) the child's wishes and long-term goals; (6) the child's community ties; (7) the child's need for permanence, including the need for stability and continuity of relationships with parent figures and siblings; (8) the uniqueness of every family and child; (9) the risks related to substitute care; and (10) the preferences of the person available to care for the child." *In re Daphnie E.*, 368 Ill. App. 3d 1052, 1072, 859 N.E.2d 123, 141 (2006).

See also 705 ILCS 405/1-3(4.05)(a) to (j) (West 2016).

¶ 30 This court will not reverse a trial court's best-interests determination unless it is against the manifest weight of the evidence. *In re B'yata I.*, 2014 IL App (2d) 130558-B, ¶ 41, 43 N.E.3d 139. A trial court's decision will be found to be against the manifest weight of the evidence " 'where the opposite conclusion is clearly evident or where the findings are unreasonable, arbitrary, and not based upon any of the evidence.' " *In re Shru. R.*, 2014 IL App (4th) 140275, ¶ 24, 16 N.E.3d 930 (quoting *In re Tasha L.-I.*, 383 Ill. App. 3d 45, 52, 890 N.E.2d 573, 579 (2008)).

¶ 31 At the best-interests hearing, Barber testified R.S., then five years old, had lived with his foster family since he was two years old. R.S. has become very attached to his foster parents. His foster mother is a licensed clinical professional counselor and school psychologist. The foster parents advocate for R.S.'s medical and educational needs and have experience caring for a child with autism, as they have adopted a child with autism. Barber stated R.S.'s foster parents have shown a willingness to adopt him, also.

¶ 32 The evidence indicates respondent has been unable to parent R.S. during his early years and will be unable to do so "beyond a reasonable time period" due to her mental

impairments. R.S. is currently in a safe and loving home, and his foster parents are willing to provide him with the permanency he needs and deserves. Considering the evidence and the best interests of the minor, we find the trial court's order terminating respondent's parental rights was not against the manifest weight of the evidence.

¶ 33

### III. CONCLUSION

¶ 34

We affirm the trial court's judgment.

¶ 35

Affirmed.